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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,811	01/08/2004	Michael G. Jungen	54317-021101	1573

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THE WALT DISNEY COMPANY
C/O GREENBERG TRAURIG LLP
The Tabor Center, 1200 17th Street
Suite 2400
Denver, CO 80202

EXAMINER

PLUCINSKI, JAMISUE A

ART UNIT	PAPER NUMBER
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3629

NOTIFICATION DATE	DELIVERY MODE
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12/24/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

santosv@gtlaw.com
DENIPMail@gtlaw.com
clairt@gtlaw.com

Office Action Summary	Application No. 10/754,811	Applicant(s) JUNGEN ET AL.	
	Examiner JAMISUE A. PLUCINSKI	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 40-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-26, and 32-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bleser et al. (US 2007/0276753) in view of Hujink (5,181,786).

4. With respect to Claims 1, 10, 24, 33, 35, 36, 37 and 39: Bleser discloses the use of a method and system, for offering for sale at a remote location, programmed cards comprising:

- a. Providing programmed media at a location remote from use (Abstract) wherein each media is associated with an identifying number (Paragraph 0015);
- b. Relating a cost of the card to the value on the card (See Paragraph 0018)
- c. Offering the media for sale at a retail location (Paragraph 0014); and

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- d. Registering the identifying number on the media with a database (Paragraph 0015).

- 5. Bleser discloses the use of gift cards which is sold at a retail location and can be in the form of a magnetic card or a smart card, however fails to disclose the card representing an admission to a venue and allowing admission to the venue upon presentation of the media. Hujink (5,181,786) discloses the use of a method for preparing magnetic cards or smart cards to be used for admission tickets (See abstract), where upon activation the card is registered (Column 3, lines 29-40) and where upon presentation of the card the holder is allowed pre-paid admission to the event or to areas within the event (Column 1, lines 31-39). The sole difference between the primary reference and the claimed subject matter is that the primary reference discloses the sale of gift cards instead of cards which provide admission to a venue. Hujink discloses it is known in the art for admission tickets to be in the form of magnetic cards (which are the same type which is sold in Bleser) Since each individual element and its function are shown in the prior art, albeit shown in separate references, the difference between the claimed subject matter and the prior art rests not on any individual element or function by in the very combination itself; that is in the substitution of the admission card of Hujink for the gift card of Bleser. Thus the simple substitution of one known element for another producing a predictable result renders the claim obvious. (See KSR [127 S Ct. at 1739] “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).
- 6. With respect to Claims 2 and 11: See Bleser, abstract.

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7. With respect to Claims 3, 4, 12 and 13: Bleser discloses the cards being sold at a retail location, and fail to disclose the location being a vending machine or a tour operator. However, the specific location of where the item is being sold is deemed to be nonfunctional descriptive material and is not functionally involved in the steps recited. The offering, registering and allowing would all be performed the same regardless of where the location is. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

8. With respect to Claims 5, 6 and 14-18: Hujink discloses the cards being used for admission to events, attractions or venues, but fails to specifically disclose the venue is a theme park, a theater, stadium or convention. However, the specific venue of what the admission is to is deemed to be nonfunctional descriptive material and is not functionally involved in the steps recited. The allowing admission step would be performed the same regardless of what type of venue it is. Thus this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed.Cir.1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

9. With respect to Claims 7, 20 and 32: Bleser discloses the card is a magnetic strip card (Paragraph 0013).

10. With respect to Claims 8 and 21: Bleser discloses the claimed invention except for the programmable media being a card with a barcode. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the programmable media be a card with a barcode, since the examiner takes Official Notice of the equivalence of a card with a

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magnetic strip and a card with a barcode for their use in the programmable media art and the selection of any of these known equivalents to the barcode would be within the level of ordinary skill in the art.

11. With respect to Claims 9 and 22: Bleser discloses the gift card can also have printed information on it (Paragraph 0018).

12. With respect to Claims 19, 34 and 38: Bleser and Hujink disclose exchanging money for the tickets and fails to disclose the value of admission being free. The examiner takes official notice that the use of free tickets is old and well known in the art. This happens during promotions, such as kids are free, or if you purchase an item tickets are given away free. It also happens for shows such as inside a theme park, where limited seating is available. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, that if admission to an event or attraction is free, then the value would be zero.

13. With respect to Claim 23: See Bleser, Abstract, and Hujink Claim 1.

14. With respect to Claims 25 and 26: See Bleser, Paragraphs 0019 and 0020.

Claim Rejections - 35 USC § 103

15. Claims 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bleser and Hujink as applied to claim 24 above, and further in view of Grimm et al. (US 2002/0116235).

16. With respect to Claim 27: Bleser and Hujink discloses the use of admission cards for admission to an attraction or a venue, However fails to disclose the admission being to a theme park and relating the cost of one or more programs offered at the venue is related to the cost of the visit. Grimm discloses the use of a reservation system/kiosk which allows a user not only to

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pay for admission to the park, but also look up attractions and pay and load permission of the attractions into the card (See abstract and Paragraphs 0013 and 0022-0025). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Bleser and Hujink to have the venue be a theme park and includes attractions or programs within the park as part of the cost of the day visit, as disclosed by Grimm, in order to allow for presale attraction packages to allow a user to plan and to visit all desired attractions and to provide a system for virtually no waiting for attractions. (See Grimm, pages 1 and 2)

17. With respect to Claim 28-30: See Grimm, Paragraphs 0018-0019 and 0027.

18. With respect to Claim 31: See Paragraphs 0018 and 0038.

Response to Arguments

19. Applicant's arguments filed 9/11/09 have been fully considered but they are not persuasive. The applicant is arguing that the rejection fails to teach the cards being "programmed" prior to sale. And argues that in the present invention no information is written on the card at time of sale, that it is simply a number that is activated within the database. The applicant further discloses Blesser to write information onto the card at the time of purchase, therefore is not a programmed card. First it should be noted that the claims as written never state that the cards are locked in any sort of way to stop or prohibit any further information to be written onto the card. All the claims state that is that it is "programmed". Paragraph 0004 of Blesser does not state that an amount can be loaded onto the card, but merely states it records the amount the card is purchased for and talks about payment for selling the card in the second location. Paragraph 0015 of Blesser discloses that the number of the card that is preassigned is

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how the card is activated in a database, and further discloses in Paragraph 0018 "In the preferred embodiment the gift card may have a credit value such as \$10, \$15 and \$25" and further discloses that once swiped at the register the card is activated. Therefore the amount is pre-programmed into the card prior to selling the card, and therefore the examiner considers this to indicate the cards of Blesser are "programmed" as outlined in the claim.

20. In regards to Hujink, Hujink is not used to show how the cards are activated and sold. Hujink is used to disclose the use of remotely selling admission tickets in the form of cards in a separate location than the actual venue is known in the art. Therefore arguments in terms of Hujink is not considered to be persuasive.

21. Rejections stand as stated above.

Conclusion

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamisue A. Plucinski/
Primary Examiner, Art Unit 3629